

Subject: Re: Rosenfeld v. AC2T, Inc. - Correspondence re: Supplemental Production
Date: Wednesday, March 23, 2022 at 1:21:21 PM Central Daylight Time
From: Cal Mayo
To: Dimon, Anna G.
CC: Boyle, Edward P.
[REDACTED]
Attachments: image001.png, image002.png

Anna,

In further response to your email of March 8, I offer the following.

\$100 is a fair rate for Dr. Yee's time for the deposition and far less than either party would pay if Dr. Yee was a designated expert. Please resolve the issue about payment for his time with Plaintiff, as Dr. Yee will need a commitment for full payment of his time at the deposition in advance of his deposition. To be clear, "his time" will include from the point the deposition begins until it ends. At most, we are talking about a few hundred dollars, so we will not use a stopwatch for breaks.

Dr. Yee will not produce documents related to his work or travels to Puerto Rico. Those trips have no connection to the issues in the pending litigation.

Cal Mayo



J. Cal Mayo, Jr.
Mayo Mallette
Oxford & Jackson Offices

E: cmayo@mayomallette.com
O: [662.236.0055](tel:662.236.0055) **J:** [601.366.1106](tel:601.366.1106)
D: [662.513.4897](tel:662.513.4897) **C:** [662.801.3837](tel:662.801.3837)
2094 Old Taylor Road, Suite 200 | Oxford, MS 38655
4400 Old Canton Road, Suite 150 | Jackson, MS 39211
mayomallette.com

From: Cal Mayo <cmayo@mayomallette.com>
Date: Wednesday, March 23, 2022 at 12:34 PM
To: "Dimon, Anna G." <AGDimon@Venable.com>
Cc: "Boyle, Edward P." <EPBoyle@Venable.com>
Subject: Re: Rosenfeld v. AC2T, Inc. - Correspondence re: Supplemental Production

As indicated in my email of Feb. 17, I need a confidentiality agreement. Dr. Yee will not consent to the NY protective order.

Once we come to terms on the agreement, I will produce the responsive documents.





J. Cal Mayo, Jr.

Mayo Mallette

Oxford & Jackson Offices

E: cmayo@mayomallette.com

O: [662.236.0055](tel:662.236.0055) J: [601.366.1106](tel:601.366.1106)

D: [662.513.4897](tel:662.513.4897) C: [662.801.3837](tel:662.801.3837)

2094 Old Taylor Road, Suite 200 | Oxford, MS 38655

4400 Old Canton Road, Suite 150 | Jackson, MS 39211

mayomallette.com

From: "Dimon, Anna G." <AGDimon@Venable.com>

Date: Wednesday, March 23, 2022 at 10:22 AM

To: Cal Mayo <cmayo@mayomallette.com>

Cc: "Boyle, Edward P." <EPBoyle@Venable.com>

Subject: RE: Rosenfeld v. AC2T, Inc. - Correspondence re: Supplemental Production

Hi Cal,

Please let us know when we can expect a response to the below.

Best,
Anna

From: Dimon, Anna G.

Sent: Tuesday, March 8, 2022 12:57 PM

To: 'Cal Mayo' <cmayo@mayomallette.com>

Cc: Boyle, Edward P. <EPBoyle@Venable.com>

Subject: Rosenfeld v. AC2T, Inc. - Correspondence re: Supplemental Production

Hi Cal,

I am responding to your February 17 email. You wrote that Dr. Yee will "make an additional production of certain responsive documents" provided that (1) AC2T agrees to compensate Yee at a rate of \$100/hour for time spent in his deposition in this case, and (2) AC2T and Yee execute a supplementary confidentiality order covering Yee's documents and testimony. Specifically, if agreement is reached on these points, you wrote that Yee will produce "to the extent they exist, documents responsive to 1-6, 9-10, and 17-18," and that you would check with Yee regarding documents responsive to Requests No. 13 and 16. You also stated that Yee would not respond to Request No. 19 because it is too broad. And, you noted that Yee has documents responsive to Requests No. 14 and 15, which are being withheld based on attorney work product assertions by counsel for Plaintiff in this action. As you know, my firm has written to Plaintiff's counsel separately on this subject, and we hope to have this issue resolved soon.

In response to the first point above, AC2T agrees to pay Yee \$100/hour for his time in the deposition that he is questioned by AC2T's counsel, provided you confirm that this is Yee's reasonable and customary rate for time spent away from work. We also take as true your representation in our February 14 call that Yee is an independent witness and is not retained by any party in this action. For the avoidance of doubt, this is not a payment for Yee's services nor for his testimony. AC2T will not compensate Yee for other time relating to the subpoena, including time spent questioned by Plaintiff's counsel, or time that we are not on the deposition record.

Regarding confidentiality, AC2T will agree that Yee may designate his documents and testimony as “confidential” under the terms of the discovery confidentiality order issued in the action. I have attached a copy for your convenience. Please confirm Yee agrees to these terms.

Regarding Request No. 19, AC2T agrees to address your concerns about breadth by limiting the request to communications concerning the Paper, the Product, AC2T, Hirsch, Bonner, this Action, any other action challenging the efficacy of the Product, and Yee’s travels to Puerto Rico and the nature of the work he performed in connection with those visits. Please confirm that this resolves your concerns, and that Yee will produce responsive documents. And, please let me know if Yee has agreed to produce his documents responsive to Requests No. 13 and 16.

I’d also like to clear up the issue regarding Request No. 12 and Janet Donaldson’s role, as I may have misspoken during our call. I understand that Donaldson was the head of Yee’s department at the University of Southern Mississippi during the relevant time period. In that role, I understand she communicated with Yee regarding concerns that AC2T brought to the University’s attention about public comments he made. There is evidence in the documents that you already produced that Donaldson and Yee did have such communications – see, for example Dr. Donaldson’s November 18, 2019 email in the VEN_YEE0000000003 attachment. Yee should produce his complete set of these communications with Donaldson.

I look forward to your response, and to receiving Yee’s remaining production. AC2T reserves all rights.

Best,
Anna

Anna G. Dimon | Associate | Venable LLP
t 212.503.0698 | f 212.218.2200
1290 Avenue of the Americas, 20th Floor, New York, NY 10104

AGDimon@Venable.com | www.Venable.com

This electronic mail transmission may contain confidential or privileged information. If you believe you have received this message in error, please notify the sender by reply transmission and delete the message without copying or disclosing it.
